

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

7 MARGARET RUDIN,
8 Plaintiff,
9 v.
10 TANYA HILL et al.,
11 Defendants.
12

2:15-cv-02503-MMD-NJK

ORDER

I. DISCUSSION

14 On September 12, 2016, this Court entered a screening order that permitted portions
15 of Plaintiff's First, Eighth, and Fourteenth Amendment claims to proceed and dismissed several
16 defendants with prejudice. (ECF No. 7 at 8-9). The screening order stayed the case and
17 ordered the case to mediation. (*Id.* at 9).

18 On October 19, 2016, Plaintiff filed a motion to submit a second amended complaint.
19 (ECF No. 14). The Court grants Plaintiff's motion to file a second amended complaint. (ECF
20 No. 14). If Plaintiff chooses to file a second amended complaint she is advised that a second
21 amended complaint supersedes (replaces) the original and first amended complaints and, thus,
22 the second amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v.*
23 *Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a
24 party was named in the original complaint is irrelevant; an amended pleading supersedes the
25 original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that
26 for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a
27 subsequent amended complaint to preserve them for appeal). Plaintiff's second amended
28 complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to

1 pursue in this lawsuit. Moreover, Plaintiff must file the second amended complaint on this
2 Court's approved prisoner civil rights form and it must be entitled "Second Amended
3 Complaint."

4 The Court notes that if Plaintiff chooses to file a second amended complaint, the Court
5 will not schedule an early mediation conference as directed by the September 12, 2016
6 screening order. Instead, the Court will screen Plaintiff's second amended complaint and then
7 order the case to proceed to mediation if any of Plaintiff's claims survive screening of the
8 second amended complaint. Plaintiff should be aware that the screening process will take
9 several months to complete. If Plaintiff would like her case to proceed now, she may file a
10 notice with the Court indicating her desire to proceed to mediation on her first amended
11 complaint.

12 **II. CONCLUSION**

13 For the foregoing reasons, IT IS ORDERED that the motion to submit a second
14 amended complaint (ECF No. 14) is GRANTED.

15 IT IS FURTHER ORDERED that if Plaintiff chooses to file a second amended complaint,
16 Plaintiff shall file the second amended complaint on or before Friday, November 18, 2016.

17 IT IS FURTHER ORDERED that if Plaintiff chooses not to file a second amended
18 complaint and would like to proceed to mediation on her first amended complaint, Plaintiff shall
19 file a notice with the Court on or before Friday, November 18, 2016. If Plaintiff chooses to
20 proceed to mediation on her first amended complaint, the Court will schedule an early inmate
21 mediation conference as soon as possible.

22 IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the
23 approved form for filing a § 1983 complaint, instructions for the same, and a copy of her first
24 amended complaint (ECF No. 6). If Plaintiff chooses to file a second amended complaint, she
25 must use the approved form and she shall write the words "Second Amended" above the
26 words "Civil Rights Complaint" in the caption.

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1 IT IS FURTHER ORDERED that, if Plaintiff does not either file a second amended
2 complaint or a notice with the Court indicating her desire to proceed to mediation on her first
3 amended complaint on or before Friday, November 18, 2016, the Court will schedule an early
4 inmate mediation conference on the first amended complaint and deny any leave to file an
5 amended complaint until after mediation.

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7 DATED: This 24th day of October, 2016.

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NANCY J. KOPPE
United States Magistrate Judge